

Malibu City Council **Regular Meeting Agenda**

Monday, September 22, 2003

5:30 P.M. – CLOSED SESSION

**City Hall – Large Conference Room
23815 Stuart Ranch Road**

6:30 P.M. – REGULAR CITY COUNCIL MEETING

**City Hall – Council Chambers
23815 Stuart Ranch Road**

Five-thirty p.m. Closed Session

This time has been set aside for the City Council to meet in a closed session to discuss matters of pending litigation pursuant to Government Code Sections 54956.9(a) and 54956.9(b). Based on the advice of the City Attorney discussion in open session concerning these matters would prejudice the position of the City in this litigation. The City Attorney will give an additional oral report regarding the closed session at the beginning of the next regular City Council meeting.

Public Comment on Closed Session Items

Existing litigation per Government Code Section 54956.9 (a):

1. Chicksands Properties LTD. v. City of Malibu et al.
Los Angeles County Superior Court Case No. BS072081
2. City of Arcadia, et al. v. Regional Water Quality Board, et al.
Los Angeles County Superior Court Case Nos. BS080807, BS080548, SO80753, BS080758, BS080791
3. City of Malibu v. California Coastal Commission (Streisand Center Coastal Permit)
Los Angeles County Superior Court Case No. BC230410
4. City of Malibu v. California Coastal Commission / TLC / Liebig (Referendum)
Los Angeles County Superior Court Case No. SS011355
5. City of Malibu v. California Coastal Commission (AB988 / LCP)
Los Angeles County Superior Court Case No. SC074641

Related cases (city named as a party in interest):

- a. Rick Appel v. California Coastal Commission
Case No. SC074658
- b. Ralph Herzig v. California Coastal Commission
Case No. SS011382
- c. Land Use Preservation v. California Coastal Commission
Case No. SS011388
- d. Riverview Farm Associates v. California Coastal Commission
Case No. SS011383
- e. Brian Sweeney v. California Coastal Commission
Case No. SS011387

- f. Trancas-PCH v. California Coastal Commission
Case No. SC074640
 - g. Tuna Ridge v. California Coastal Commission
Case No. SC011381
 - h. Land Use Preservation Defense Fund v. California Coastal Commission
Los Angeles County Superior Court Case No. SS011388
-
- 6. City of Malibu, et al. v. County of Ventura, et al. (Ahmanson Ranch)
Ventura County Superior Court Case No. CIV 216938
 - 7. City of Malibu / Geffen v. Access for All / Coastal Commission et al
Los Angeles County Superior Court Case No. BC277034
 - 8. Colony Beach Preservation Association v. California Coastal Commission
Los Angeles County Superior Court Case No. BS083683
 - 9. Malibu CAN v. City of Malibu (MBC Development Agreement)
Los Angeles County Superior Court Case No. BS083683
 - 10. Malibu Township Council v. City of Malibu II (28-car garage)
Los Angeles County Superior Court Case No. BS079965
 - 11. Marine Forest Society v. California Coastal Commission Case No. 00AS00567 (Sacramento Superior Court)
(Amicus)
 - 12. Rubens v. City of Malibu
Los Angeles County Superior Court Case No. SC060331
 - 13. Sierra Club v. City of Malibu (Forge Lodge)
Los Angeles County Superior Court Case No. BS083573
 - 14. Silver v. City of Malibu
Los Angeles County Superior Court Case No. BS081960
 - 15. Sprint v. City of Malibu et al
United States District Court Case No. SACV02660 DOC (MLGx)
 - 16. Sweeney et al v. City of Malibu
Los Angeles County Superior Court Case No. SS011602
 - 17. Taxpayers for Livable Communities; Jay Liebig II v. City of Malibu
Los Angeles County Superior Court Case No. BS0735585
 - 18. Taxpayers for Livable Communities, Povah, et al. v. City of Malibu
Los Angeles County Superior Court Case No. BS072794
 - 19. Trancas Property Owners Association v. City of Malibu
Los Angeles County Superior Court Case No. BS084112
 - 20. United States of America ex rel. Darian v. Accent Builders inc. et al.
United States District Court Case No. CV00-10255-FMC(JWJx)

21. Visher v. City of Malibu

Los Angeles County Superior Court Case No. SC078703

Conference With Legal Counsel – Anticipated Litigation pursuant to Government Code Section 54956.9(b):

22. Number of Cases: 2

Six-thirty p.m. Regular Session

Public Hearings will begin at 6:30 p.m., or as soon thereafter as possible, but in no event later than 7:30 p.m.

Call to Order - Mayor

Roll Call - Recording Secretary

Pledge of Allegiance

Closed Session Report

Approval of Agenda

Report on Posting of Agenda – September 12, 2003

1. Ceremonial/Presentations

- A. Presentation of City Tile to Tom Fakehany for his service to the City of Malibu
- B. Proclamation Declaring October as Fire Prevention Month
- C. Presentation of Certificates of Recognition to Summer 2003 Junior Waterpolo Team for their Undefeated Season
- D. Recognition of the City of Malibu Administrative Services Department on being awarded the Certificate of Achievement for Excellence in Financial Reporting for the City's Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2002

2. Written and Oral Communications from the Public

- A. Communications from the Public concerning matters which are not on the agenda but for which the City Council has subject matter jurisdiction. City Council may not act on these matters except to refer the matters to staff or schedule the matters for a future agenda.
- B. City Council Subcommittee reports/Mayor and Councilmember reports and inquiries.

3. Consent Calendar**A. Previously Discussed Items**

None.

B. New Items**1. Waive further reading**

Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

Staff contact: City Attorney Hogin, 456-2489 ext. 228

2. Approve Warrants

Staff recommendation: Allow and approve warrant demand numbers 22950 through 23067 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 294 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of \$690,970.78, including ADP payroll voucher numbers 5433889 – 5433907 in the amount of \$107,650.19.

Staff contact: Administrative Services Director James, 456-2489 ext. 224

3. Approval of Minutes

Staff recommendation: Approve City Council meeting minutes for the Regular City Council meeting held on July 28, 2003 and the Special City Council meeting held on September 3, 2003.

Staff contact: City Clerk Pope, 456-2489 ext. 228

4. Denial of Claim for Damages filed by Edward Begley

The City was served with a claim by Edward Begley alleging damage to property caused by failure of a drainage device/pipe causing a landslide. This item requests Council denial of said claim.

Staff recommendation: Deny claim filed by Edward Begley.

Staff contact: City Clerk Pope, 456-2489 ext. 228

5. Designation of Anthony Fredrick Memorial Scholarship Fund for Parks & Recreation Youth Sports Programs

This item requests the Council designate the Parks & Recreation Department's scholarship fund in honor of Anthony Frederick, a retired professional basketball player, Malibu resident and Youth Coach who has worked with the City recreation programs for several years. Anthony passed away this summer. Parents of participants have suggested this gesture.

Staff recommendation: Approve the designation of the Parks & Recreation Department's scholarship fund as the "Anthony Fredrick Memorial Scholarship Fund."

Staff contact: Parks and Recreation Director Adams, 456-2489 ext. 225

6. Acceptance of Donations for the Malibu Senior Center

Current City practice requires that all donations be presented to the City Council for acceptance. Because of the number of donations offers being received, staff is requesting approval of a streamlined process for donations to the Senior Center.

Staff recommendation: Authorize staff to seek and accept appropriate donations to the Malibu Senior Center of materials, services or money.

Staff contact: Parks and Recreation Director Adams, 456-2489 ext. 225

4. Ordinances and Public Hearings*

This portion of the agenda is for ordinances and for advertised hearing items where formal public testimony on each item is received prior to City Council action; the public hearings will begin at 6:30 p.m., or as soon thereafter as possible, but in no event later than 7:30 p.m.

- A. GENERAL PLAN AMENDMENT NO. 02-002; ZONING MAP AMENDMENT NO. 02-002; NEGATIVE DECLARATION NO. 02-003 An Amendment to the Malibu General Plan Land Use Map from Rural Residential - 20 to Rural Residential - 5, and an Amendment to the Malibu Zoning Map from Rural Residential - 20 to Rural Residential - 5, on 68 Acres and Open Space Dedication of 57 Acres along the North side of Latigo Canyon Road, approximately 4,000 feet North of the Latigo Canyon/Pacific Coast Highway Intersection. APPLICANT: City of Malibu; OWNER: George J. Rubens; SETTLEMENT: George J. Rubens, as trustee of the George J. Rubens and Yvonne M. Rubens Family Trust, et al, and the City of Malibu; LOCATION: North side of Latigo Canyon Road, approximately 4,000 feet North of the Pacific Coast Highway/Latigo Canyon Road intersection; GROSS ACREAGE: 68 acres (Continued from September 11, 2003)

This application for rezoning of a portion of the subject property implements the terms of the settlement agreement in the matter of Rubens v. City of Malibu. At the Planning Commission meeting of June 17, 2002, the General Plan Amendment, Zoning Map Amendment, and Negative Declaration were recommended for denial. This item was continued from the September 11, 2003 City Council meeting.

Staff recommendation: (1) Adopt Resolution No. 03-25 adopting Negative Declaration No. 02-003 for General Plan Amendment 02-002 to change the General Plan Land Use Map from Rural Residential 20 to Rural Residential 5 and Zoning Map Amendment No. 02-002 to change the Zoning Map from RR-20 to RR-5 on 68 acres of land known as Assessor Parcel Numbers 4459-003-007 and 008, generally located on the north side of Latigo Canyon Road, approximately 4,000 feet from the Latigo Canyon Road / Pacific Coast Highway intersection (Rubens Family Trust); (2) adopt Resolution No. 03-26, a resolution of the City Council of the City of Malibu approving General Plan Amendment 02-002 to change the General Plan Land Use Map from Rural Residential 20 to Rural Residential 5 on 68 acres of land known as Assessor Parcel Numbers 4459-003-007 and 008, generally located on the north side of Latigo Canyon Road, approximately 4,000 feet from the Latigo Canyon Road / Pacific Coast Highway intersection (Rubens Family Trust), and (3) after the City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 241, an ordinance of the City of Malibu adopting Zoning Map Amendment No. 02-002 to change the Zoning Map from RR-20 (one unit per twenty acres) to RR-5 (one unit per five acres) on 68 acres of land known as Assessor Parcel Numbers 4459-003-007 and 008, generally located on the north side of Latigo Canyon Road, approximately 4,000 feet from the Latigo Canyon Road / Pacific Coast Highway Intersection (Rubens Family Trust); and (4) direct staff to schedule second reading and adoption of Ordinance No. 241 for the October 13, 2003 City Council meeting.

Staff contact: Planning Manager Teruya, 456-2489, ext. 243

B. Addition to Malibu Municipal Code Chapter 12.08, Parks, Beaches and other Recreation Areas Prohibiting Lookouts for Illegal Activities

This ordinance has been requested by the Sheriff's Department to assist in enforcement of alcohol and drug related violations on the beaches. This ordinance will make it an infraction for any person to act as "lookout" or to warn others participating in illegal activities of the approach of law enforcement officers.

Staff recommendation: 1) After City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 259, an ordinance of the City of Malibu adding Section 12.08.075 to the Municipal Code to prohibit individuals from signaling the approach of police to those participating in prohibited activities; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 259 on October 13, 2003.

Staff contact: Parks and Recreation Director Adams, 456-2489 ext. 225

C. Appeal No. 03-001 – An appeal of Planning Commission's conditions of approval, specifically limiting the Malibu Stage Company to 18 production days for children performances, 60 production days for non-children performances, and 2 days for fund raising activities. Appellant: Geoff Ortiz, Executive Director, Malibu Stage Company; Applicant: Malibu Stage Company; Location: 29243 Pacific Coast Highway

The Malibu Stage Company is appealing a Planning Commission imposed condition of approval on their Conditional Use Permit, which restricts the number of performance/fundraising activity days to 80. The Malibu Stage Company would like a maximum of 102 performance/fundraising activity days. Staff is requesting a continuance of this item in order to allow additional time to prepare a staff report.

Staff recommendation: Continue to the October 13, 2003 City Council meeting.

Staff contact: Planning Manager Teruya, 456-2489, ext. 243

5. Old Business

A. Receive Report from Bond Measure Advisory Committee on Results of Survey

In April 2003, on the recommendation of the Bond Measure Advisory Committee, the City Council directed staff to contract with Shilts Consultants, Inc. to complete a survey of Malibu residents and landowners to determine support for either a benefit assessment district or sales tax increase to generate revenue for designated Parks and Recreation projects. The survey was completed and the results have been summarized.

Staff recommendation: Receive and file the Parks and Recreation Benefit Assessment District and Sales Tax Increase Feasibility Report and consider recommendation from the Bond Measure Advisory Committee.

Staff contact: Parks and Recreation Director Adams, 456-2489 ext. 225

6. New Business**A. Formation of a Blue Ribbon Committee to Provide Recommendations on Alternative Solutions to the Civic Center Way / Winter Canyon Traffic Safety Issues**

Staff recommendation: 1) Approve the formation of a blue ribbon committee to investigate and recommend alternative solutions to the Civic Center Way / Winter Canyon traffic safety issues; 2) appoint a 5 member committee consisting of one appointee from each Councilmember; 3) direct the committee to hold at least two public hearings to solicit public input on potential projects; and 4) direct the committee to return with recommendations by a specific date.

Staff contact: Interim City Engineer Sanchez, 456-2489 ext. 237

7. Council Items

None.

Adjournment**Future Meetings**

Mon., October 13, 2003	6:30 p.m.	Regular City Council Meeting	City Hall Council Chambers
Mon., October 27, 2003	6:30 p.m.	Regular City Council Meeting	City Hall Council Chambers
Wed., October 29, 2003	6:00 p.m.	Quarterly City Council Meeting	City Hall Council Chambers

Guide to the City Council Proceedings

The Oral Communication portion of the agenda is for members of the public to present items which are not listed on the agenda, but are under the subject matter jurisdiction of the City Council. No action may be taken under this section except to direct staff unless the Council, by a two-thirds vote, determines that the need to take action arose after the posting of the agenda or that the item presents an emergency situation for which action is required prior to the next regularly scheduled meeting of the City Council. Although no action may be taken on these non agenda items, the Council and staff will follow up on those items needing response. Each speaker is limited to (3) three minutes. Time may be surrendered by deferring (1) one minute to another speaker, on the same item, not to exceed a total of (8) eight minutes. The speaker wishing to defer time must be present when the item is heard. In order to be recognized and present an item, each speaker must complete and submit to the Recording Secretary a Request to Speak form prior to the beginning of the item being announced by the Mayor (forms are available at the Chamber doors). Speakers are taken in the order slips are submitted.

Items in Consent Calendar Section A have already been considered by the Council at a previous meeting where the public was invited to comment, after which a decision was made. These items are not subject to public discussion at this meeting because the vote taken at the previous meeting was final. Resolutions concerning decisions made at previous meetings are for the purpose of memorializing the decision to assure the accuracy of the findings, the prior vote, and any conditions imposed.

Items in Consent Calendar Section B have not been discussed previously by the Council. If discussion is desired, an item may be removed from the Consent Calendar and will be considered individually. Councilmembers may indicate a negative or abstaining vote on any individual item by so declaring prior to the vote on the motion to adopt the entire Consent Calendar. Items excluded from Consent Calendar will be taken up by the Council following the action on the consent calendar. The Council first will take up the items for which public speaker requests have been submitted. Public speakers are limited to (3) three minutes each. If a speaker slip is submitted late the speaker's time will be limited to (2) minutes. If more than 10 speaker slips are submitted each speaker's time will be limited to (2) two minutes each.

Items set for Public Hearing commence at 7:30 p.m. or as soon thereafter as practical. At that time the City Council will stop its other proceedings and move directly to Public Hearing items. At the conclusion of Public Hearings the City Council will continue the agenda where it left off. For Public Hearings involving zoning matters the appellant will be given 15 minutes to present their position to the City Council, including rebuttal time. All other testimony shall be limited to (3) three minutes per person and follow the rules as set forth under Oral Communication.

Items in Old Business are items which have appeared on previous agendas but have either been continued or tabled to this meeting with no final action having been taken. Public comment on any item is permitted under the public comment rules. Speakers should address whether they are supportive or opposed to either the recommended action or the motion before the City Council for decision.

Items in New Business are items which are appearing for the first time for formal action. Public comment on any item is permitted under the public comment rules. Speakers should address whether they are supportive or opposed to either the recommended action or the motion before the City Council for decision.

City Council Items are items which individual members of the City Council may bring up in terms of reporting to other members of the City Council, to propose future agenda items or to suggest future staff assignments. Items discussed under City Council Items follow the same rules as set forth under Oral Communications in terms of the actions the City Council may take on any item brought up under this portion of the agenda. Each Councilmember's oral item presentations are limited to four minutes. No new items will be taken-up after 10:30 p.m. without a two-thirds vote of the City Council.

City Council meetings are aired on City of Malibu Government Access Channel 3. Broadcasts on Channel 3 occur at 8:00 a.m. and 8:00 p.m. Monday, Wednesday and Friday, Tuesday and Thursday at 8:00 p.m., and at 2:00 p.m. on both Saturday and Sundays. Copies of the staff reports or other written documentation relating to each item of business described above are on file in the office of the City Clerk, Malibu City Hall, 23815 Stuart Ranch Road, Malibu, California and are available for public inspection during regular office hours which are 8:00 a.m. to 5:00 p.m., Monday through Thursday and 8:00 a.m. to 4:30 p.m., Friday. Copies of staff reports may be purchased for \$0.10 per page. Pursuant to State law, this agenda was posted at least 72 hours prior to the meeting at the Malibu City Offices, Malibu Community Center at Point Dume and Malibu Community Library. The City Hall phone number is (310) 456-2489. To contact City Hall using a telecommunication device for the deaf (TDD), please call (800) 735-2929 and a California Relay Service operator will assist you. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Building & Safety Director Victor Peterson, (310) 456-2489, ext. 251. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADD Title II]. Requests for use of audio or video equipment during a Council meeting should be directed to Jena Chanel at (310) 456-2489 ext. 278 or jchanel@ci.malibu.ca.us at least 48 hours prior to the meeting."

I hereby certify under penalty of perjury, under the laws of the State of California, that the foregoing agenda was posted in accordance with the applicable legal requirements. Dated this 12th day of September 2003.

Lisa Pope, City Clerk

* APPEAL NO. 03-010, an appeal of the Planning Commission's denial of Appeal No. 02-009 and approval of Site Plan Review No. 02-033 and Plot Plan Review No. 02-091, allowing the construction of a two-story single-family residence, not to exceed 28 feet in height (APPELLANT: Frank Angel on behalf of VNB Trust, Mr. and Mrs. James Brolin; LOCATION: 6804 Zumirez Drive) was noticed for public hearing for this meeting. The appellant has withdrawn the appeal, therefore no public hearing will be held.